

1967—Subsec. (c). Pub. L. 90-83 substituted “402 and 403” for “251 and 252”.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

#### CROSS REFERENCES

National Guard Bureau, assignment of regular or reserve officers of Army or Air Force, see section 10507 of Title 10, Armed Forces.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 18502.

### § 108. Forfeiture of Federal benefits

If, within a time fixed by the President, a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the National Guard of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600; Pub. L. 103-337, div. A, title IX, §904(c), Oct. 5, 1994, 108 Stat. 2827.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>          |
|------------------------|---------------------------|--|
| 108 .....              | 32:24.                    | June 3, 1916, ch. 134, §116, 39 Stat. 212. |

The words “does not comply” are substituted for the words “shall \* \* \* have failed or refused to comply”. The words “a requirement of, or regulation prescribed under, this title” are substituted for the words “any requirement of this title, or any regulation promulgated thereunder and in aid thereof by the President or the Secretary of the Army”. The words “money or any other aid” are substituted for the words “pecuniary or other aid”. The words “or provided by this title or any other” are omitted as surplusage.

#### AMENDMENTS

1994—Pub. L. 103-337 amended section generally. Prior to amendment, section read as follows: “If, within a time to be fixed by the President, a State does not comply with or enforce a requirement of, or regulation prescribed under, this title its National Guard is barred, wholly or partly as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103-337, set out as an Effective Date note under section 10501 of Title 10, Armed Forces.

### § 109. Maintenance of other troops

(a) In time of peace, a State or Territory, Puerto Rico, the Virgin Islands, or the District of Columbia may maintain no troops other than those of its National Guard and defense forces authorized by subsection (c).

(b) Nothing in this title limits the right of a State or Territory, Puerto Rico, the Virgin Islands, or the District of Columbia to use its National Guard or its defense forces authorized by subsection (c) within its borders in time of peace, or prevents it from organizing and maintaining police or constabulary.

(c) In addition to its National Guard, if any, a State or Territory, Puerto Rico, the Virgin Islands, or the District of Columbia may, as provided by its laws, organize and maintain defense forces. A defense force established under this section may be used within the jurisdiction concerned, as its chief executive (or commanding general in the case of the District of Columbia) considers necessary, but it may not be called, ordered, or drafted into the armed forces.

(d) A member of a defense force established under subsection (c) is not, because of that membership, exempt from service in the armed forces, nor is he entitled to pay, allowances, subsistence, transportation, or medical care or treatment, from funds of the United States.

(e) A person may not become a member of a defense force established under subsection (c) if he is a member of a reserve component of the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600; Pub. L. 85-861, §2(2), Sept. 2, 1958, 72 Stat. 1542; Pub. L. 100-456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

#### HISTORICAL AND REVISION NOTES 1956 ACT

| <i>Revised section</i> | <i>Source (U.S. Code)</i>   | <i>Source (Statutes at Large)</i>  |
|------------------------|---|--|
| 109(a) .....           | 32:194(a) (1st sentence).<br>32:194(c) (as applicable to 32:194(a) (1st sentence)).           | June 3, 1916, ch. 134, §61 (less (b)); restated Oct. 21, 1940, ch. 904 (less last 3 provisos); restated Aug. 18, 1941, ch. 363 (less last 3 provisos); restated Oct. 1, 1942, ch. 570 (less (b)); restated June 26, 1944, ch. 279 (less (b)); restated Sept. 27, 1950, ch. 1058 (less (b)), 64 Stat. 1072. |
| 109(b) .....           | 32:194(a) (less 1st sentence).<br>32:194(c) (less applicability to 32:194(a) (1st sentence)). |  |

In subsection (a), the words “those of its National Guard” are substituted for the words “as authorized in accordance with the organization prescribed under this Act”.

In subsections (a) and (b), the provisions of 32:194(c) are exhausted by the enumeration of the jurisdictions named.

In subsection (b), the words “Nothing in this title limits” are substituted for the words “Nothing contained in this Act shall be construed to limit”.

#### 1958 ACT

| <i>Section of title 32</i> | <i>Source (U.S. Code)</i>                     | <i>Source (Statutes at Large)</i>     |
|----------------------------|---|---------------------------------------|
| 109(c) .....               | 32 App.:194(b) (less 4th and last sentences). | Aug. 11, 1955, ch. 802, 69 Stat. 686. |
| 109(d) .....               | 32 App.:194(b) (4th sentence).                |                                       |
| 109(e) .....               | 32 App.:194(b) (last sentence).               |                                       |

In subsection (c), the words “heretofore authorized by this Act [sic]”, “as such”, and “in any manner” are omitted as surplusage.

In subsection (d), the words “under any Federal law” are omitted since only Federal law could require service in the armed forces. The word “military” is omitted as surplusage.